

An
Bord
Pleanála

Board Direction
BD-008387-21
ABP-307798-20

At a meeting held on 02/06/2021, the Board considered the proposed development, the report of the Inspector and the documents and submissions on file generally.

The Board decided to approve the proposed development under Section 182A of the Planning and Development Act 2000, as amended, in accordance with the Inspector's recommendation, based on the reasons and considerations set out below and subject to compliance with the conditions listed under.

The Board also determined, under Section 182B, as amended, that the sum to be reimbursed to the undertaker in respect of the costs associated with the application is €68,438, as set out in the Schedule of Costs at Appendix 1.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- European legislation, including of particular relevance:
 - Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
 - EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy

- national and regional planning and related policy, including:
 - National Development Plan 2018-2027, February 2018,
 - National Planning Framework, February 2018,
 - Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure, July 2012,
 - regional and local level policy, including the:
 - Regional Spatial Economic Strategy for the Southern Region,
 - the local planning policy including:
 - Clare County Development Plan 2017-2023,
 - Kerry County Development Plan 2015-2021,
 - Strategic Integrated Framework Plan for the Shannon Estuary (2013-2020),
 - other relevant guidance documents,
 - the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity, including the existing Moneypoint Power Station,
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- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites,

- the submissions made to An Bord Pleanála in connection with the planning application, and
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment screening.

Proper Planning and Sustainable Development

It is considered that the proposed development would accord with European, national, regional and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Lower River Shannon SAC (site code: 002165), the River Shannon and River Fergus SPA (site code: 004077) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lower River Shannon SAC (site code: 002165), the River Shannon and River Fergus SPA (site code: 004077), in view of the Sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment, the Board considered, in particular, the

- i. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Lower River Shannon SAC (site code: 002165), the River Shannon and River Fergus SPA (site code: 004077),

- ii. Mitigation measures which are included as part of the current proposal,
- iii. Conservation Objective for these European Sites, and
- iv. Views of the Department of Culture, Heritage and the Gaeltacht.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Sites' conservation objectives.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the proposed development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

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2. (a) All mitigation, environmental commitments and monitoring measures identified in the Environmental and Planning Report shall be implemented in full as part of the proposed development.

(b) All mitigation and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information, and environmental protection.

3. No submarine works shall be carried out during dolphin calving season.

Reason: In the interest of species protection.

4. Noise monitoring shall be carried out at all times during the construction phase of the development.

Reason: In the interest of environmental protection and public health.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the proposed development.

Reason: In the interest of environmental protection and public health.

6. (a) No additional artificial lighting shall be installed or operated on site, unless authorised by a prior grant of planning permission.

(b) Cables within the site shall be located underground.

Reason: In the interests of clarity, and of visual and residential amenity

7. Construction works will be undertaken in accordance with best practice and relevant guidance to prevent any deterioration of water quality and disturbance to bird species, as set out in the preliminary CEMP. These

measures will be integrated in full into the final CEMP by the eventual contractor as a means of effective implementation of all measures. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

Reason: In the interests of public safety, protection of ecology and residential amenity.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall – (a) notify the relevant planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

All archaeological pre-construction investigations shall be carried out in accordance with the details specified with the Environmental and Planning Report submitted with the application and in accordance with details specified within the further information response dated 3rd day of December 2020.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. Onshore site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

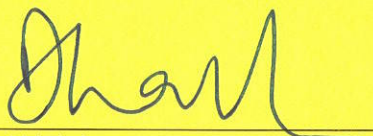
10. Noise levels from the substation shall not exceed 55 dB(A) rated sound level (corrected sound level for any tonal or impulsive component) at dwellings between 0800 hours and 2200 hours on any day and shall not exceed 45dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to and agreed with the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

Schedule of Costs

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is €68,438. A breakdown of the Board's costs is set out in the attached Appendix.

Board Member:



Dave Walsh

Date: 02/06/2021

